

Patents and Intellectual Property

UNITED STATES
PATENT AND TRADEMARK OFFICE



Overview of IP: The USPTO in 2014



USPTO Headquarters in Alexandria, VA

8,611 Patent Examiners

618,330 Patent Applications Filed

329,613 Patents Issued

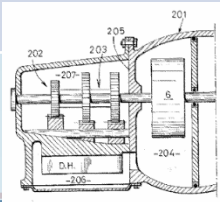
429 Trademark Examining Attorneys

336,275 Trademark Applications

206,555 Certificates of Registration

Overview of Intellectual Property

	<u>Utility Patent</u>	<u>Design Patent</u>	<u>Trade Secrets</u>	<u>Copyrights</u>	<u>Trademarks</u>
<i>What is protected</i>	Inventions – Process, machine, manufacture, or composition of matter	Ornamental characteristics embodied in, or applied to, an article of manufacture	Business-related information (formulas, techniques, information)	Art, in an all-encompassing sense	Marks that indicates the source or origin of goods or services
<i>Requirements</i>	Utility, novelty, and nonobviousness	Novelty and nonobviousness	Commercial value, generally not known, and reasonable efforts of secrecy	Original, authorship, and fixation in a tangible medium	Use in commerce and either distinctiveness or secondary meaning
<i>Protects Against...</i>	Making, selling, offering for sale, and importing	Making, selling, offering for sale, and importing	Stealing	Copies, performances, displays, and derivative works	Use of a mark that causes the likelihood of confusion
<i>Endures until...</i>	20 years from filing date	15 years from issuance	Publicly disclosed	The life of the author + 70 years	Abandoned
<i>Rights of Independent Third Party Creators</i>	None	None	Full	Full	None





Overview of IP: The Mobile Phone

Trademarks:

- Made by “Apple” (logo)
- Product “iPhone”
- Software “iOS”, “Safari”

Patents:

- Semiconductor circuits
- Touch Screen
- Battery/Power Control
- Antenna
- Speaker
- Device Housing

Copyrights:

- Software code
- Instruction manual
- Ringtone
- ...

Trade secrets:

- ???

Designs (some of them patented):

- Form of overall phone
- Placement of button & speaker
- Color pattern of trim
- Surface finish



© Apple

Overview of IP: Trademarks

Common Law

- protection derived from use (™)

State Registration

- registered with one or more U.S. states

Federal Registration

- registered in the U.S. Patent and Trademark Office

Protects against confusion as to the source of goods or services, not from competition that does not confuse customers



Overview of IP: Registered Trademarks

- Right to enforce nationally and bring legal action in federal courts
- Use of federal Trademark registration symbol ®
- Right to record mark with Customs
- Serve as basis for foreign filing
- Publication in U.S. Trademark database



Overview of IP: Copyright

- Protects “original works of authorship” including literary, dramatic, musical, artistic and certain other intellectual works fixed in a tangible medium
- Library of Congress administers registration; USPTO advises the Executive branch on intellectual property issues including copyright
- © symbol represents an identification of the owner, not an indication that the copyright has been registered

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Overview of IP: Source of Authority

Patents and Copyrights

- “The Congress shall have the power... To **promote the progress** of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries” (U.S. Const., Art. I, Sec. 8, emphasis added)
- First patent statute and first copyright statute enacted in 1790 during the first Congress
- **Trademarks**
- “The Congress shall have the power... To **regulate commerce** with foreign nations, and among the several states”
- First federal statutes were enacted in 1870 and 1881

Overview of IP: Trade Secrets

- Any information that derives economic value from not being generally known or ascertainable
- Can be formulas, patterns, compilations, programs, devices, methods, techniques or processes
- Protection stems from common law dating to the 1800's
- All states have some sort of trade secret protection
- Most laws based on the Uniform Trade Secrets Act
- In 2014 Congress considered, but did not pass, federal versions of the UTSA

Overview of IP: Why Trade Secret?

Trade Secret Basics:

- Protects commercially valuable proprietary information, e.g., formulas or business information that gives a competitive advantage
 - Customer lists
 - Product formulations
 - Search algorithms
- Trade Secrets are not generally known and must be subject to reasonable efforts to preserve confidentiality

Common Ways to Lose a Trade Secret:

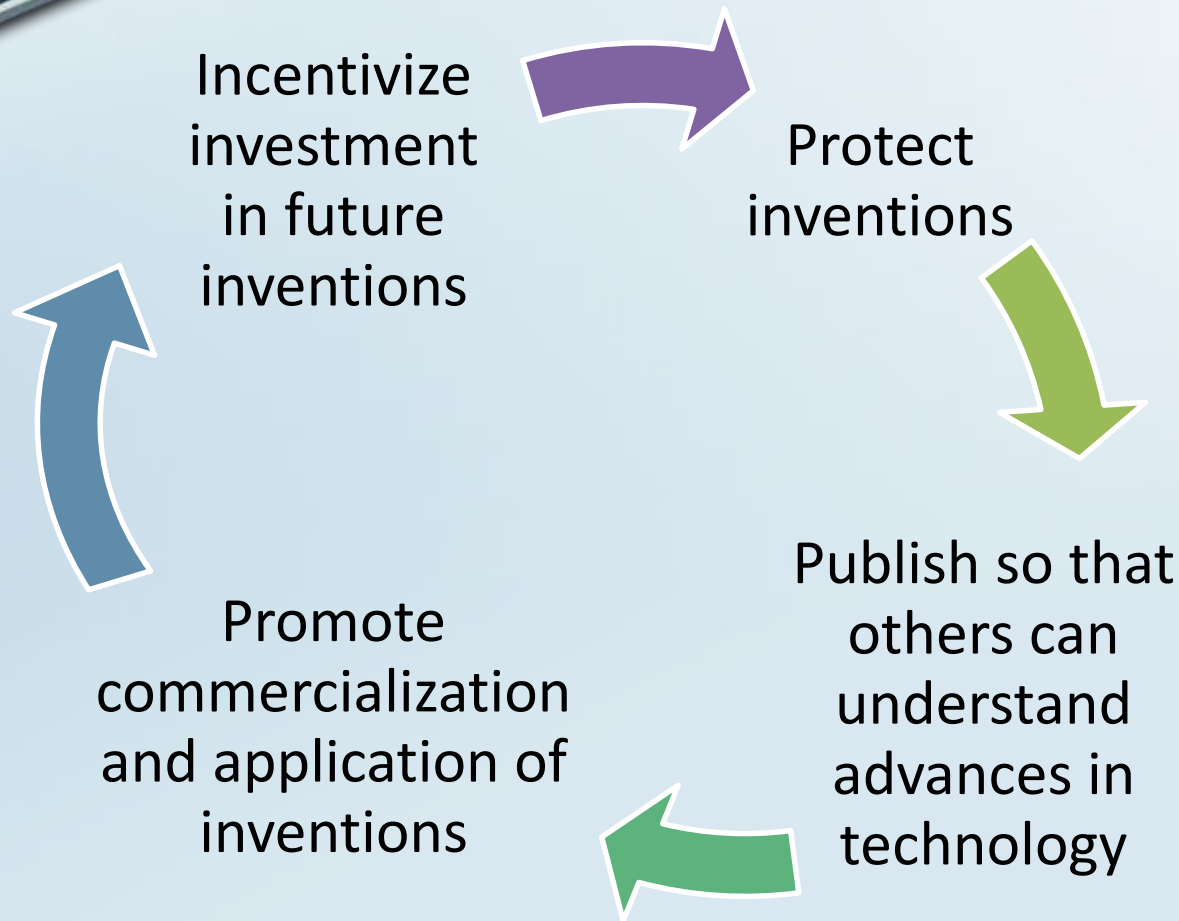
- Failure to take adequate steps to prevent disclosure
- Owner or owner-authorized disclosure
- Reverse engineering
- Independent development



Overview of IP: Patents

- Right to **exclude others** from making, using, selling, offering for sale or importing the claimed invention
- Right conditional on inventor applying for, and USPTO issuing, a patent
- Strict time limits to apply for a patent
- Limited term
- Territorial: protection only in territory that granted patent; **NO world-wide patent**

Overview of IP: Patents

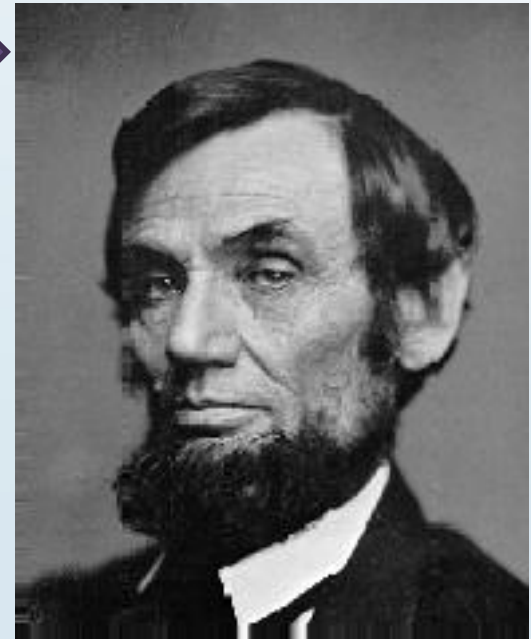


Overview of IP: Patents Quid Pro Quo



Time-Limited
Monopoly

Discloses Invention

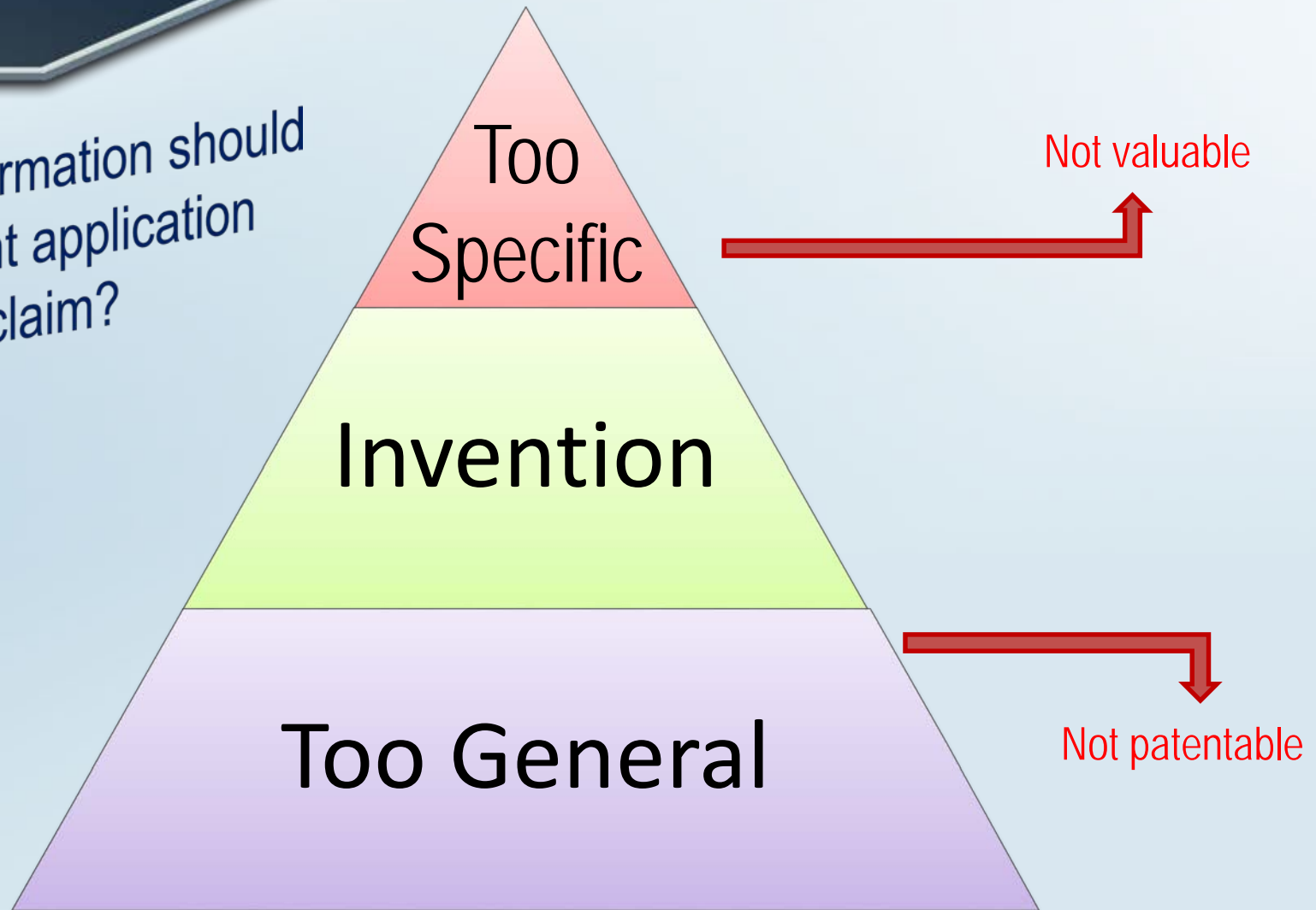


Overview of IP: Why Get a Patent?

- A patent can be
 - Used to gain entry to a market
 - Used to exclude others from a market
 - Used as a marketing tool to promote unique aspects of a product
 - Sold or licensed, like other property

Patent Scope

What information should
a patent application
claim?



Examination: Role of Patent Examiner

- Issue Valid Patents
 - Make appropriate objections
 - Make only reasonable rejections
 - Help applicant identify allowable subject matter
- Act as an advocate for the Public
 - Ensure development of clear and complete file record
 - Patent prosecution before Office should not be adversarial, instead it should be cooperative investigation between Examiner and Applicant, which ensures Applicant receives a patent only for that which they are entitled to in accordance with Patent laws


Examination: What May an Examiner Do?

- Advise on advantages of, and appropriate classification fields for, pre-examination search
- Advise on advantages of securing services of a competent patent attorney or agent
- Advise on Office fees and Office procedures in general
- Assist public in conducting a search, short of rendering patentability advice or opinion as to whether an application should be filed

What is patentable?



How to Read a Patent: Cover Page


 US007183475B2

(12) **United States Patent**
Van Halen

(10) Patent No.: **US 7,183,475 B2**
 Date of Patent: **Feb. 27, 2007**

(54) **STRINGED INSTRUMENT WITH ADJUSTABLE STRING TENSION CONTROL**

(75) Inventor: **Edward Van Halen, Los Angeles, CA (US)**

(73) Assignee: **E.L.V.H., Inc., Burbank, CA (US)**

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: 10/370,351
 (22) Filed: Feb. 18, 2003

(65) **Prior Publication Data**
 US 2004/0159203 A1 Aug. 19, 2004

(51) Int. Cl.
 G10D 3/04 (2005.01)

(52) U.S. Cl. 84/298

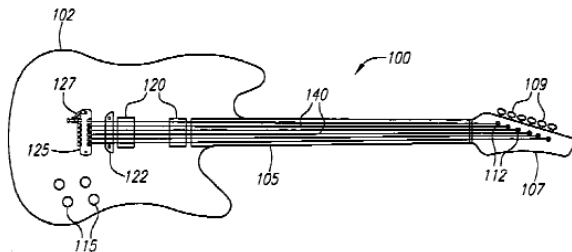
(58) Field of Classification Search 84/297 R, 84/313, 298, 299, 307, 312 R
 See application file for complete search history.

(56) **References Cited**
 U.S. PATENT DOCUMENTS
 3,142,221 A * 7/1964 Boyd 84/313
 4,255,570 A 8/1985 Benson 84/312
 4,610,190 A * 9/1986 Maloney 84/312 R
 4,686,883 A 8/1987 Piche et al. 84/313
 5,127,298 A * 7/1992 Snape et al. 84/313
 5,542,330 A 8/1996 Berioff 84/298
 5,760,321 A * 6/1999 Sabott 84/312 R
 5,907,114 A * 5/1999 Culver 84/313

OTHER PUBLICATIONS
 "The tone and volume controls," The electric guitar: analysis of components, undated, 3 pages.
 "Schaller Floyd Rose Tremolo Diagram," Guitar Body Schaller Floyd Tremolo, undated, 2 pages.
 "Schaller 456 Fine Tuning Stud Mount Bridge Diagram," Guitar Body 456 Schaller Bridge, undated, 1 page.
 Van Halen, Eddie, "Finally... an easy way to drop from E down to D and back, without unclamping," undated 2 pages.
 "Ibanez Instruction Manual," undated, 2 pages.
 Brochure from Hipshot Products, Inc., Jan. 2002.
 * cited by examiner
 Primary Examiner—Kimberly Lockett
 (74) Attorney, Agent, or Firm—Irell & Manella LLP

(57) **ABSTRACT**
 A tension adjustment mechanism for a stringed musical instrument suitable for use on a tailpiece assembly comprises a pivoting member (such as a string receptor), an adjustable stop, and a lever handle engaged with the pivoting member. The pivoting member preferably has a post for securely receiving an end of a string and an elongate arm. Placement of the handle in a first position preferably causes the adjustable stop to engage and depress the elongate arm of the pivoting member, thereby increasing tension on the string. Placement of the handle in a second position preferably causes the adjustable stop to disengage the elongate arm of the pivoting member, thereby allowing the pivoting member to return to its original position, and decreasing tension on the string. A fine tuning adjustment may be included in the tailpiece assembly. The adjustable stop and/or fine tuning adjustment may comprise adjustable screws.

28 Claims, 5 Drawing Sheets



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Scope of protection is not defined by the title or the picture on the front!

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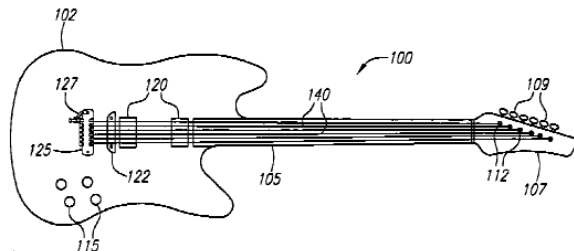
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The USPTO is moving to harmonize with the European Patent Office on a classification scheme. G10D is Stringed Instruments.

Do I really need a patent?

- Myths -

- “If I just publish, I will prevent anyone from getting a patent on my invention”
 - What if already patented?
 - No Patent Claim = No Protection
 - Can’t exclude others from market
 - You may be excluded from using
- “I’m not going to get a patent, because other countries will steal my invention”
 - How will you keep it secret?

Provisional Patent Applications

- A low-cost way to establish an early effective filing date (priority date) in non-provisional patent application with fewer formalities
- 12 month window to file corresponding utility patent application in order to benefit from the priority date of the provisional application
 - Caution – earliest effective filing date for any new matter filed in utility application is the filing date of the non-provisional application
- Provisional application is abandoned automatically at 12 months and is not examined
- Patent term measured from filing date of subsequent **non-provisional** application

Basic Fees

Provisional Application Filing Fee:\$260/\$130/\$65

Utility

- Basic filing fee
 - \$280/\$140/\$70
- Search Fee
 - \$600/\$300/\$150
- Examination fee
 - \$720/\$360/\$180
- Issue\$960/\$480/\$240

Design

- Basic filing fee
 - \$ 180/\$90/\$45
- Search fee
 - \$120/\$60/\$30
- Examination
 - \$460/\$230/\$115
- Issue
 - \$560/\$280/\$140

Patent Infringement in the U.S.

Occurs when –

Without authorization of patent owner:

- Making or using the invention
- Offer to sell or sells within the U.S.
- Import the invention into the U.S.
- Actively induce infringement by another

Enforcement Considerations

- Burden is on the Patent Owner
- Enforceability of patents
 - Effectiveness of enforcement laws and procedures in the country/region of interest
 - Some countries allow recordation of patent with customs
- Competitor products should be monitored
 - In stores
 - At trade shows
- Licensing may be beneficial
 - Limit as to time, geographical area, or field of use

Resources

- Comprehensive Information and Training Material for First Inventor to File:
http://www.uspto.gov/aia_implementation/patents.jsp#heading-10
- Inventor Resources: <http://www.uspto.gov/inventors/index.jsp>

Other Resources:

- Education for the Public (including IP Awareness Assessment Tool)
- Pro Bono
- Law School Clinical Program
- Pro Se Assistance
- Satellite Offices
- Scam Prevention

Education for the Public

- Web-based resources
 - Videos
 - Tutorials
 - webinars
- Conferences and seminars
- Smithsonian collaboration
- IP Awareness Assessment Tool

<http://www.uspto.gov/inventors/assessment/index.html>

Micro-entity

- SMALL ENTITY REQUIREMENT –
- APPLICATION FILING LIMIT – no more than four previously filed applications
- GROSS INCOME LIMIT ON APPLICANTS AND INVENTORS – equal to three times the median household income for the preceding calendar year (\$155,817 for 2013)
- GROSS INCOME LIMIT ON PARTIES WITH AN “OWNERSHIP INTEREST”

Satellite Offices

Dallas-
Fort Worth



Denver



Detroit



Silicon Valley





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Current Issue



Dr. Nalle Stoney, inventor of the ZipGrow and co-owner of Bright Agrotech.

Spark of Genius [Growing the Distance](#)

If you find a problem that needs solving, chances are there are others who have the same problem. Sometimes, however, you need to convince them they have a problem.

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Past Issues



Scam Prevention

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http://www.uspto.gov/inventors/scam_prevention/index.jsp

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